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THE LAST FIFTEEN YEARS OF THE HOUSE OF BURGESSES OF VIRGINIA, 1761-1776.

By JAMES MERCER GARNETT.

[It had been the intention of the writer to summarize the history of the House of Burgesses of Virginia as presented in the seven volumes of their Journals so far reprinted, but space was wanting for so lengthy an article, hence he has confined himself to a consideration of the first four volumes reprinted,—all edited by the former State Librarian, Mr. John P. Kennedy. Summaries by the present writer of the last three volumes will be found in *The Nation* for April 23, 1908, Oct. 21, 1909, and Jan. 6, 1910.]

As is well known to all interested in this very valuable publication by the State Library Board, the *Journals of the House of Burgesses of Virginia*, the several volumes are published in reverse order chronologically, but that order will not be followed in this article. As an interesting item of bibliography, I may mention here that the Library of the Maryland Historical Society once contained a bound volume of Journals of the Virginia House of Burgesses for five sessions, May 19th, 1763, to March 12th, 1767. This volume was presented a few years ago by the Council of the Maryland Historical Society to the Virginia State Library, and in recognition of this courtesy the State Librarian sends regularly to the Maryland Historical Society the several volumes of these Journals as they are published. The existence of this volume was then unknown to the former State Librarian, and the Journals were printed from transcripts made in London.

The volume of Journals of the House of Burgesses of Virginia from 1761 to 1765, is largely taken up with their dealings with the Indians, and with matters relating to the "Parsons' Cause," and to the Stamp Act.

It was a matter of great importance to the Colonies to come to terms with the Indians in respect to the ownership of lands, and several meetings were held in regard to this matter. On the death of Gen. Forbes, Gen. Stanwix succeeded to the command, and before his arrival the Deputy Superintendent, Croghan, held conferences with the Indians. There was a meeting at Pittsburg in July, 1759, and another in October, at which Gen. Stanwix was present. Gov. Fauquier

wrote several letters in respect to the lands between the Greenbrier and the New rivers, which were claimed by the Cherokees as well as by the Six Nations. No action was taken by Virginia until the treaties of Hard Labor and Fort Stanwix, noticed in the Journals for 1766 to 1769. The old regiment had been disbanded and an effort was now made to raise a new one. The bill was finally passed, providing for recruiting 1,000 men, appropriating £30,000 to pay and clothe them, and taxing each tithable person one shilling to raise the money. The House voted 66 to 3, in favor of it, but the Council barely passed it by 5 to 4 votes. The dissatisfaction among the Indians was settled by the treaty at Hard Labor, in South Carolina, on October 5th, 1768, and that at Fort Stanwix on November 5th, of the same year. These treaties established the claim of the Colony to the lands from the Alleghanies to the Ohio river. In 1764, Sir Jeffrey Amherst, the Commander-in-Chief, wished the Colony to furnish a regiment of 500 men, but the House of Burgesses declined, stating their reasons, and said that they would have to rest the defence of the frontiers upon their militia.

The Indians continued to be very troublesome on the frontiers, and the Governor so advised the Board of Trade on July 23, 1764. He also declined to grant the request of the Cherokees to go to England again, which request had already been refused by the Superintendent of Indian affairs, Mr. Stuart. This caused discontent among the Indians, and together with the murder of some Indians in Augusta county in 1765 nearly caused an uprising, which was only averted by the efforts of Col. Andrew Lewis. The people were anxious for war, and the efforts of Col. Lewis to bring the guilty parties to justice, caused the "Augusta Boys" to issue a proclamation on June 4th, 1765, offering a reward of £1,000 for the arrest of Col. Lewis. Moreover, the "Paxton Boys," of Pennsylvania, sent word to the "Augusta Boys" that "if they were not strong enough to rescue persons arrested for murdering Indians, assistance would at once be forwarded from Pennsylvania." Thus the disputes with the Indians very nearly caused a war, and even an insurrection amongst those lawless people.

The finances of the Colony caused much deliberation from 1760 to 1765. The whole period from 1758 to the resolutions against the Stamp Act was one of great financial trouble.

The "Two-Penny Act" was associated with the differences between the Virginia and the foreign merchants. Virginia could not coin money, and trade brought no gold and silver into the Colony, so tobacco was the medium of exchange.

As early as 1632 this had been agreed upon. In 1696 the salary of the clergy was fixed at 16,000 pounds of tobacco, to be levied by the

vestries and parishes. This law did not allow for fluctuation in the price of tobacco. The act of 1748 revised this, and fixed the value of inspected tobacco at 16s 8d per 100 lbs., fifty per cent. in excess of the valuation in 1696. In 1755, on account of a great drought, an act was passed allowing debtors to settle in money at the above price. Tobacco was worth more, so the clergy appealed to the Bishop of London in 1756, asking that the act be annulled by the King. This long appeal is given in the Preface to the Journals of 1761-1765 (pp. xlii. ff). In 1758 a similar act was passed by the Assembly, and in 1759 an explanatory act. Many suits followed, but especially the notable one of the Rev. James Maury, of the Parish of Fredericksville, in Louisa county, to recover the tobacco, in which Patrick Henry was of counsel for the defendants. On November 5th, 1763, the court held the act of 1758 to be void, but when the jury came to settle the amount of damages, after five minutes' deliberation, they returned a verdict for the plaintiff of one penny, and this ended the case.*

"The Clergy appealed to the Governor on the ground of oppression, but while he consented to grant the appeal, the matter was never brought prominently before the people again."

As early as December 18th, 1764, the House of Burgesses adopted an address to his Majesty, and memorials to the Lords and Commons, and to the agent of the Colony, against the proposed Stamp Act, assuring his Majesty of their "firm and inviolable attachment to his sacred person and government," but entreating his protection "in the enjoyment of their ancient and inestimable right of being governed by such laws respecting their internal polity and taxation as are derived from their own consent, with the approbation of their Sovereign or his substitute."†

The letter of Gov. Fauquier to the Board of Trade, of June 5th, 1765, is also given, in which he encloses four resolutions, and states that the fifth was adopted by a vote of 20 to 19, but was afterwards "struck off" next day. There were but 39 members present out of 116 of which the House consisted. The Governor says: "In the course of the debates I have heard that very indecent language was used by a Mr. Henry, a young lawyer who had not been a month a member of

* References to the literature on both sides, in the Virginia State Library and in the Boston Athenæum, are given in the Preface to the Journals. See also William Wirt Henry's "Life of Patrick Henry," Vol. I, and William Wirt's "Life of Patrick Henry," Section I, 9th ed., 1838.

† The Stamp Act in full, and Henry's resolutions against it, together with the accounts given by Henry, Jefferson and Paul Carrington, and the text as it appeared in the Newport *Mercury* of June 24th, and the Boston papers of July 1st, are given in the Preface. These resolutions caused the formation of the first society of the Sons of Liberty, "in Boston early in July, 1765."

the House,—who carried all the young members with him; so that I hope I am authorized in saying there is cause at least to doubt whether this would have been the sense of the Colony if more of their representatives had done their duty by attending to the end of the session." The passage of these resolutions caused the dissolution of the Assembly next day, June 1st; and the Governor's letter to the Board of Trade, giving an account of the proceedings, followed a few days later. The act was to take effect November 1st, 1765, and we have an interesting letter from Governor Fauquier to the Board of Trade, dated November 3d, giving an account of what took place then. Col. George Mercer, custodian of the stamps, arrived at Williamsburg on Wednesday, October 30th, and found the people in a great state of excitement. The Governor says that he should "call this concourse of people a mob if he did not know that it was chiefly, if not altogether, composed of gentlemen of property in the Colony." They met Col. Mercer on the way and demanded whether he would resign or act in this office as Distributor of Stamps. He replied that he would give them an answer at 10 o'clock on Friday morning at that place. Some said that Friday was too late; the act would take place, and they would have an answer to-morrow [Thursday]. Messages were brought to Mr. Mercer by leading men in the crowd, but he said that he had given an answer and would have no other extorted from him. They were about to rush in, but the Governor appeared, and Mr. Mercer, against his own inclination, was persuaded by some of his friends, to promise an answer at the Capitol the next evening at five. The Governor escorted Mr. Mercer to his house, and they discussed the subject. The Governor advised him not to regard the reasonings of his father [Mr. John Mercer] and his brother, [Mr. James Mercer], both lawyers, attending the Court, "who," says the Governor, "were frightened out of their senses for him."

Mr. Mercer appeared at the Capitol at five the next evening, and the result was that he determined to resign the appointment. When the Court met next day, the Governor asked if he could supply the Court with proper stamps, and he replied that he could not, so the Court was adjourned to the 10th of April, and Col. Mercer entrusted the stamps to Capt. Sterling, of his Majesty's ship, "Rainbow." A letter of his to Governor Sharpe, of Maryland, (found in Gov. Sharpe's Correspondence, in the Library of the Maryland Historical Society), states that he had in his charge the stamps for three colonies, doubtless, Maryland, Virginia and North Carolina. "The Magistrates throughout the Colony determined that they would not enforce the Stamp Act, and declined to serve further as officers of the Colony."

In the Journals for April 14th, 1768, we find an address to the King, and addresses to the Lords and the Commons on the state of affairs,

from "the Council and the Burgesses and Representatives of the People of Virginia." After thanking the King for the repeal of the Stamp Act, they "most humbly implore your Fatherly goodness and Protection of this and all their sister Colonies in the Enjoyment of their ancient and inestimable right of being Governed by such Laws only, respecting their internal Polity and Taxation, as are derived from their own Consent with the approbation of their Sovereign."

Lord Botetourt was appointed Governor with a view to alienating Virginia from Massachusetts and the other Colonies, and at the meeting of the Assembly on May 11th, 1769, he expressed the wish that no resolutions sustaining the cause of Massachusetts be passed by the Virginia Assembly. But he "reckoned without his host," as the resolutions of May 16th, 1769, showed, which claimed that "the sole right of imposing taxes on the inhabitants of this his Majesty's Colony and Dominion of Virginia is now, and ever hath been, legally and constitutionally vested in the House of Burgesses; that it is lawful and expedient to procure the concurrence of his Majesty's other Colonies, in dutiful addresses, praying the royal interposition in favour of the violated rights of America;" also that "the seizing of any person or persons, residing in this Colony, suspected of any crime whatsoever committed therein, and sending such person or persons to places beyond the sea to be tried, is highly derogatory of the rights of British subjects;"—and more to the same effect. These resolutions caused the dissolution of the Assembly next day. The repeal of all the duties, except that on tea, soon followed, and Lord Botetourt communicated the decision of the Crown to the Assembly on November 7th, 1769, which ended the discussion on the question of taxation, and enabled the Assembly to take up other matters of importance, especially the finances.

Much of the time of this Assembly was taken up with the affairs of the Treasury, and the action of the late Treasurer, Mr. John Robinson, in re-emitting the Treasury notes that were ordered by the Assembly to be burned.

It was claimed that his object was to relieve the financial distress, the notes being secured by the paper of various individuals, but it was illegal nevertheless. Mr. Robinson had been appointed Treasurer in 1738 and died May 11th, 1766. The securities held by him and his estate more than met the demands of the Colony, and "the reports of the investigating committee," says the editor, "indicate his purpose as anything but an intent to defraud," but the result of the investigation was that the offices of Treasurer and of Speaker of the House of Burgesses, which Mr. Robinson had held for twenty-eight years, were henceforth separated.

Richard Henry Lee was very prominent in this investigation of the Treasury in 1765, and the results that followed.

Edmund Randolph, in his MS. History of Virginia, (in the Library of the Virginia Historical Society,) speaks very highly of Mr. Robinson. Robert Carter Nicholas was made Treasurer, and later Peyton Randolph was elected Speaker of the House of Burgesses.

Indian affairs occupied the attention of the Assembly after the treaty of Fort Stanwix, November 5th, 1758. Two letters of the Superintendent of Indian affairs, John Stuart, a deed signed by the Six Nations, two letters of the Commissioners, Thomas Walker and Andrew Lewis, and one of Lord Botetourt, will be found in the Preface to the Journals.

The most important act of the first session of 1769 was the passage of the resolutions already referred to, which caused the dissolution by the Governor. The members of the House of Burgesses at once repaired to a private house, appointed Peyton Randolph, the late Speaker, as Moderator, discussed the state of the Colony, and determined on the formation of an Association, appointing a committee "to prepare the necessary and most proper regulations for that purpose," and to report next day at ten o'clock. An adjourned meeting was held next day, Thursday, May 18th, the Association duly formed, and the signatures of the Burgesses appended.

There was a November session of 1769, being a new Assembly, which discussed Indian relations, especially the western boundary, and the treaty of Lochabar, S. C. The personnel of the Burgesses remained almost the same, except in the case of those who opposed the Stamp Act resolutions, who were left at home.

A memorial was presented by the House of Burgesses to the Governor, Lord Botetourt, on the western boundary, as the House did not favor the line, proposed by the Superintendent of Indian Affairs. A copy of this memorial was sent by the Governor to the Superintendent, which papers are given in the Preface, and the Governor urged the Superintendent to enter upon a treaty with the Cherokees as soon as possible. This resulted in the Treaty of Lochaber, S. C., October 18th, 1770. Early in this year Edward Montague, the London agent for the Colony of Virginia, notified the Committee of Correspondence that several gentlemen, called the "Ohio Company," were attempting to obtain a grant of 1,350,000 acres of land on the Ohio, against which he protested.

Washington wrote to Lord Botetourt on the subject, October 5th, 1770, being concerned lest this grant might interfere with grants already made to soldiers for their services in the French and Indian war. John Mercer, of Marlborough, Stafford county, Virginia, was Secretary of the Ohio Company, and his son, Col. George Mercer, formerly Aide-de-Camp to Washington, and delegate with him representing Frederick county in the House of Burgesses, (1761-'65) was agent for

the company in London. He notified Washington on December 18th, "that the 200,000 acres claimed by officers of the Virginia troops had been accepted by the company as valid, and that their rights should be respected." No further attempt on the part of the Colony was made to prevent the cession to the company, and in 1772 a grant bearing that date was delivered.

Lord Botetourt died on October 15th, 1770, and William Nelson, President of the Council, succeeded him, pending the appointment of a new Governor.

We have a letter from him of October 18th, supporting Washington in his objections to the grant to the Ohio Company, but these were obviated by the consent of the company to respect the grant to the soldiers. Lord Dunmore, too, on succeeding to the Governorship, condemned the project of establishing a colony on the Ohio river, and a letter from him on the subject, dated November 12th, 1770, is given. He argued that the Colony on the Ohio was too far from the settled portions; that the transport of commodities would be very expensive; that it would not pay, and that it might bring on an Indian war.

We have another Association entered upon on June 22nd, 1770, by the members of the House of Burgesses and the merchants of Williamsburg, including twelve articles of non-importation, and resolving that these articles shall be binding on each signer "until the act of Parliament which imposes a duty on tea, paper, glass, and painters' colours, be totally repealed." The twelfth and last article, which provided against the importation of "any merchandise or manufactures exported from Great Britain, which are, or hereafter shall be, taxed by an act of Parliament for the purposes of raising a revenue in America," was to remain in force "until the contrary be declared by a general meeting of the members of this Association;" it contained some 160 signatures. During the session of 1771 the question of an American Episcopate was agitated, but the Burgesses were opposed to it, and passed a resolution of thanks to the four Virginia clergymen who opposed it, although the majority favored it. The editor quotes from Campbell's *History of Virginia*, who gives as a reason for this opposition that "It was believed that, if bishops should be sent over, they would unite with the Governors in opposition to the rights of America." He adds: "The laity of the Episcopal Church in America, were, excepting a small minority, opposed to the measure." This may have been true at that time, but the laity of the Episcopal Church in Virginia controlled the Assembly, by a very large majority, and were needlessly apprehensive of the influence of bishops. Some of the most ardent advocates of the rights of America were the Episcopal clergy and laity.

As showing the high regard entertained by the people of Virginia for Lord Botetourt, on July 20th, 1771, the House of Burgesses re-

solved, *nemine contradicente*, that "an elegant statue [of him] be erected in marble at the public expense, with proper inscriptions, expressing the grateful sense this House entertains of his Lordship's prudent and wise administration, and their great solicitude to perpetuate, as far as they are able, the remembrance of those many public and social virtues which adorned his illustrious character."

As is well known, this statue still stands in front of William and Mary College.

Lord Dunmore was transferred from New York to Virginia as Governor in October, 1771, and soon afterwards he issued his proclamation of Oct. 12, dissolving the Assembly.

The last volume of the Journals (being the first reprinted) includes the sessions of 1773 to 1776. The next session of the Assembly, following that of April 11th, 1772, convened on March 4th, 1773, after several prorogations.

Gov. Dunmore, very unwillingly, had called the Assembly together, "in order to deliberate," (as he says), "on a matter I have to lay before them of great moment to the welfare of this Colony,"—which proved to be the extensive counterfeiting of the currency that had been recently discovered. Being called together, the Assembly thought proper to discuss other matters "of great moment to the welfare of this Colony," the most important of which was the noted resolutions of Dabney Carr, presented October 12, 1773, of which Mr. Jefferson has left us an account,—appointing "a standing Committee of Correspondence and Inquiry," consisting of eleven of the most prominent gentlemen in the Colony, "to obtain the most early and authentic intelligence of all such acts and resolutions of the British Parliament, in proceedings of administration, as may relate to or affect the British Colonies in America," and "to correspond with our sister Colonies;" also to enquire into the case of the "Gaspee."

This Committee at once prepared a circular letter to the Assemblies of the other Colonies, and similar Committees were formed by them.*

The Minutes of the Committee of Correspondence follow the Journals of 1773, 1774, and 1775, in this volume. They are also given in the calendar of *Virginia State Papers*, Vol. VIII. This session of the Assembly was prorogued by the Governor on March 15th until June 17th following, and three times further successively, so that it did not meet until May 5th, 1774.

But news of the Boston Port Bill arrived in May, 1774, and the Virginia Assembly determined to take notice of it. On May 24th, they

*See my paper on the "Committee of Correspondence" and the "Call for the first Congress," in Vol. XI, of the "Collections of the Virginia Historical Society," 1892.

appointed the 1st of June, 1774, "for a day of fasting, humiliation and prayer, to implore heaven to avert from us the evils of civil war, to inspire us with firmness in the support of our rights, and to turn the hearts of the King and Parliament to moderation and justice." This resolution was printed by order of the Assembly in the *Virginia Gazette* of May 26th, and as soon as the Governor saw it, he summoned the Assembly, and informed them that this paper made it necessary for him to dissolve them, and they were dissolved accordingly.

On the day following, May 27th, 89 members of the House of Burgesses and others, assembled at the Raleigh Tavern, and formed another anti-important Association, stating specifically, "It is further our opinion that as tea, on its importation into America, is charged with a duty imposed by Parliament for the purpose of raising a revenue without the consent of the people, it ought not to be used by any person who wishes well to the constitutional rights and liberty of British America." A convention of delegates from each county was appointed to meet at Williamsburg on Aug. 1st, which appointed delegates to meet those of the other Colonies. The minutes of this convention of August 1st, 1774, were printed, but it is one of the rarest pamphlets connected with Virginia Revolutionary history. The Assembly was continuously prorogued in the effort to secure a more pliable body, until it finally met on 1st June, 1775. The removal of the gunpowder from the magazine in Williamsburg, and the consequent enforcement of payment for it by Patrick Henry and his men, occurred this spring.

Gov. Dunmore's proclamation of May 3d, 1775, gives his public reasons for removing the gunpowder from the magazine to H. M. Ship, the *Fowey*, but his letter to Lord Dartmouth of May 1st, given in the Preface to the Journals and occupying two folio pages of print, contains his true reasons for the removal, as he says that "It lay exposed to any attempt that might be made to seize it, and I had reason to believe the people intended to take that step." He closes his letter by saying that, if troops, arms, and ammunition were sent there, he "could raise such a force from among Indians, Negroes and other persons, as would soon reduce the refractory people of this Colony to obedience."

A broadside issued in Williamsburg on April 29th had given news of the battle of Lexington. In accordance with Gov. Dunmore's proclamation of May 12th, the House of Burgesses met on June 1st, and, as things looked threatening, on July 7th Dunmore removed with his family to the *Fowey*, lying off York, stating that "he believed his family were in danger of bodily harm, and were no longer safe at Williamsburg."

Lord Dunmore had been apprehensive since Patrick Henry's arrival with the Virginia militia near Williamsburg, when he compelled Rich-

ard Corbin, his Majesty's Receiver-General, to pay £330 as compensation for the powder. Dunmore says in this letter to Lord Dartmouth: "A party headed by a certain Patrick Henry, one of the Delegates of this Colony, a man of desperate circumstances, and one who has been very active in encouraging disobedience and exciting a spirit of Revolt among the People, for many years past, advanced to within a few miles of this place, and there encamped with all the appearance of actual War,"—and more to the same effect. He thinks the payment for the powder was undertaken "pursuant to the Laws established by the General Congress, wherein the people are directed to make reprisals on the persons and effects of the Officers of Governm't for any damage done in consequence of the execution of their duty;" he apprehends "the seizing of me and my family as hostages to answer for any consequences that may ensue from the contest with Great Britain;" and he transmits two proclamations which he had issued. He has "little or no good expectations from the resolutions of the approaching Assembly of Virginia, the violence of the temper of which has already been so publicly manifested."

Communications still passed between the Governor and the Assembly, in one of which on June 24th, 1775, the last day of the actual session of the Assembly, the Governor says: "The well-grounded cause I had for believing my Person not safe at Williamsburg has increased daily; I cannot therefore meet you at the Capitol as you entreat; but this day, [Saturday, June 24th,] being too far spent, I shall be ready, to receive the House on Monday, at twelve of the Clock at my present residence for the purpose of giving my assent to such Acts as I shall approve of." The response of the House of Burgesses to this last message of their Governor was the adoption of six resolutions reported by a committee, the first of which reads: "*Resolved, nemine contradicente*, that his Lordship's Message requiring this House to attend him on Board one of his Majesty's Ships of War, is a high Breach of the Rights and Privileges of this House;" and Mr. Mercer was appointed to carry the Resolution to the Council and request their concurrence.

The presentation of these Resolutions was the last communication that passed between the House of Burgesses and Governor Dunmore. The House adjourned soon afterwards to Oct. 12th, on which day it met, with but thirty-seven members present, and having no quorum it adjourned to March 7, 1776, when it met, with but thirty-two members present, and adjourned to May 6th. The last entry we have in the *Journals of the Virginia House of Burgesses*, is on this day, and reads as follows: "Several members met, but did neither proceed to Business, nor adjourn, as a House of Burgesses," so this notable body, which had lasted from 1619 to 1776, died a natural death. The body

that succeeded it on May 6th, was composed of almost the same persons under another name, and the ordinances passed by that Convention were the laws of the Commonwealth. By July 1st a Bill of Rights and a Constitution had been adopted, and a Governor, Patrick Henry, elected, so that the old Commonwealth was started on its new career before the Declaration of Independence.

The Convention of 1775 had met on March 20th and July 17th, in Richmond, and on December 1st, in Williamsburg, had appointed delegates to the General Congress, and a Committee of Safety to serve as the chief executive of the Colony during the interim of the Conventions, the first-Committee having been appointed on August 17th, consisting of Edmund Pendleton, George Mason, John Page, Richard Bland, Thomas Ludwell Lee, Paul Carrington, Dudley Digges, William Cabell, Carter Braxton, James Mercer, and John Tabb.

The second Committee was appointed on December 16th, and consisted of Dudley Digges, John Page, Paul Carrington, Edmund Pendleton, James Mercer, Thomas Ludwell Lee, William Cabell, Richard Bland, Joseph Jones, John Tabb and Thomas Walker, and these gentlemen governed the Colony until the election of Patrick Henry as Governor by the Convention of 1776.

Thus the transition from Colony to Commonwealth in Virginia was made very quietly and with great unanimity, but a long and bloody war was still in prospect before independence was to be realized. The Tories in Virginia were few in number, and of slight consequence in influence and action. The Revolutionary movement was made almost unanimously, as was seen in the ease with which the House of Burgesses became the Convention, which adopted the Declaration of Rights and the Constitution.

The hearts of the people of Virginia were enlisted in defence of their rights, a declaration of which was the first ordinance adopted "by the representatives of the good people of Virginia, assembled in full and free Convention, which rights do pertain to them, and their posterity, as the basis and foundation of government."

So the Convention and the General Assembly were the legitimate successors of the ancient and honorable House of Burgesses.